
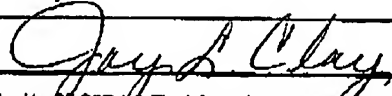


PTO/SB/21 (02-04)  
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<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	10725.235	
	Filing Date	December 1, 2003	
	First Named Inventor	Andrew J. CURELLO	
	Art Unit	1724	
	Examiner Name	Ivare C. CINTINS	
Total Number of Pages in This Submission	4	Attorney Docket Number	BIC-023

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	Jennifer R. Mahalingappa, Esq. Registration No. 47,765	
Signature		
Date	December 20, 2005	

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**DATE:** December 20, 2005

**NUMBER OF PAGES:** Five (5)  
(Including transmittal)

**TO:** Examiner Ivars C. Cintins  
Group Art Unit 1724

**OF:** United States Patent and Trademark Office

**TELEFACSIMILE NO.:** 571-273-8300

**FROM:** Jennifer R. Mahalingappa, Esq.

**Re:** U.S. Application No. 10/725,235  
Our Reference: BIC-023

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Andrew J. Curello *et al.*

Application No. 10/725,235

Group Art Unit: 1724

Filed: December 1, 2003

Examiner: Ivars C. CINTINS

For: FUEL CELL SYSTEM INCLUDING AN ION FILTER

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**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the communication mailed on November 22, 2005, the Applicants supply herewith a complete response to the Restriction Requirement of August 23, 2005. Applicants again respectfully traverse the Restriction Requirement as the Restriction Requirement is improper. Pursuant to MPEP § 803, an application may be required to be restricted to one of two or more claimed inventions *only* if the two criteria for proper requirement for restriction are met:

- (A) The inventions must be independent or distinct as claimed *and*
- (B) There must be a serious burden on the examiner.

It is specifically noted in MPEP § 803 that if the search and examination of an entire application can be made without serious burden, the examiner must examine the entire application on the merits, even though the application includes claims to independent or distinct inventions.

The examiner has alleged as the *prima facie* showing of a serious burden that the inventions have acquired separate status in the art. However, the Applicants rebut this assertion. No serious burden to the examiner exists at this point, as the examiner has already conducted a complete search of all claims currently pending in the application. As proof, the Applicants point to the action on the merits issued by the examiner on March 15, 2005 ("the

*U.S. Application No. 10/725,235  
Response to Restriction Requirement*

March 15 Action"), in which action the examiner fully considered all of the pending claims. Furthermore, in the March 15 Action, the examiner rejected all of the claims on the same basis, as being unpatentable pursuant to 35 U.S.C. § 103 due to U.S. Patent No. 6,723,460 in view of U.S. Patent No. 4,038,365. Therefore, the March 15 Action shows not only that all of the pending claims are capable of being examined in the present application, but that the examiner himself did not consider doing so a serious burden.

The response to the March 15 Action, filed by the Applicants on June 14, 2005, did not include amendments to the claims sufficient to necessitate a new search. Further, the examiner did not assert that such a search is either warranted or burdensome.

The Applicants specifically take no position as to the independence and/or distinctiveness of the invention or inventions set forth in the present application. No such position is necessary to traverse this Restriction Requirement.

In order to set forth a complete response in the event that the examiner does not withdraw the restriction, the Applicants provisionally elect to prosecute Group I as identified by the examiner including at least claims 1-14 and 20-23. Additionally, the Applicants elect to prosecute the fuel supply filter location species, believed to include claims 1-3, 7-14, and 20-21, and the shredded polymer medium form species, believed to include claims 1-8, 14 and 20-21. The claims to be considered for examination therefore include claims 1-3, 7-8, 14, and 20-21. The examiner has designated claims 1, 7, 14, and 20 as generic to all of the claims vis-à-vis the species election. As such, Applicants respectfully reserve the right to have the claims readable on the non-elected species considered in this application should any of the generic claims be allowed.

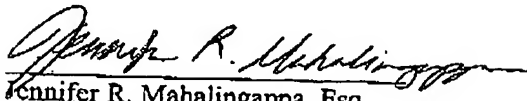
In light of the preceding, Applicants believe that all of the presently pending claims are in condition for allowance, early notice of which would be greatly appreciated. The examiner is invited to telephone the undersigned attorney of record if he believes that such a call would materially advance the prosecution and eventual allowance of the present application.

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Response to Restriction Requirement*

Applicants believe that no fees are due in connection with the submission of this Response. If any fee is due, the Commissioner may charge appropriate fees to H.T. Than Law Group, Deposit Account No. 50-1980.

Respectfully submitted,

Date: December 20, 2005

  
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Attorney for Applicant

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